

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:04CR127
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
JERRY LEE JORDAN,)	
)	
Defendant.)	

The Court has received the Revised Presentence Investigation Report (“PSR”) in this case and the Defendant’s motion for downward departure (Filing No. 87). The parties have not objected to the PSR. See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The motion for downward departure addresses two issues: over representation of the Defendant’s criminal history, arguing that category I more fairly represents his criminal history as opposed to category II; and the Defendant’s substantial assistance. At sentencing, the Court will hear the issue relating to the alleged over representation of criminal history. The other issue is denied as moot, inasmuch as only the government may file a motion for downward departure based on the grounds raised.

IT IS ORDERED:

1. The parties are notified that my tentative findings are that the Revised Presentence Investigation Report is correct in all respects;

2. The Defendant's motion for downward departure will be heard with respect to the issue of the alleged over representation of criminal history, and otherwise the motion is denied as moot;

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 30th day of June, 2005.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge